

1 BILL NO. S-85-08-04

2 SPECIAL ORDINANCE NO. S-

153-85

3 ORDINANCE AUTHORIZING THE CITY OF  
4 FORT WAYNE TO ISSUE ITS "ECONOMIC DEVELOPMENT  
5 REVENUE BONDS  
6 (EDY'S GRAND ICE CREAM PROJECT)  
7 SERIES 1985" AND APPROVING  
8 OTHER ACTIONS IN RESPECT THERETO

9 WHEREAS, the Fort Wayne Economic Development Commission has  
10 rendered its Project Report for the Edy's Grand Ice Cream Project  
11 regarding the financing of proposed economic development facilities  
12 for Edy's Grand Ice Cream and the Fort Wayne Plan Commission has  
13 commented favorably thereon; and

14 WHEREAS, the Fort Wayne Economic Development Commission  
15 conducted a public hearing on August 1, 1985, and also adopted a  
16 resolution on August 1, 1985, which Resolution has been transmitted  
17 hereto, finding that the financing of certain economic development  
18 facilities of Edy's Grand Ice Cream complies with the purposes and  
19 provisions of I.C. 36-7-11.9 and 12 and that such financing will be  
20 of benefit to the health and welfare of the City of Fort Wayne and  
21 its citizens; and

22 WHEREAS, the Fort Wayne Economic Development Commission has  
23 heretofore approved and recommended the adoption of this form of  
24 Ordinance by this Common Council, has considered the issue of  
25 adverse competitive effect and has approved the forms of and has  
26 transmitted for approval by the Common Council the Loan Agreement,  
27 Trust Indenture, Letter of Credit, Credit Agreement, TENR Services  
28 and Remarketing Agreement, Tender Agent Agreement and Placement  
29 Memorandum; now therefore,

30 BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT  
31 WAYNE, INDIANA, THAT:

32 SECTION 1. It is hereby found that the financing of the  
economic development facilities referred to in the Loan Agreement  
approved by the Fort Wayne Economic Development Commission and pre-

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1 sented to this Common Council, the issuance and sale of revenue  
2 bonds, the loan of the proceeds of the revenue bonds to Edy's Grand  
3 Ice Cream for the acquisition and renovation of such facilities and  
4 the equipping thereof, and the payment of the revenue bonds by the  
5 payments of Edy's Grand Ice Cream under the Loan Agreement, and, if  
6 necessary, the payment by Security Pacific National Bank under the  
7 Letter of Credit, complies with the purposes and provisions of I.C.  
8 36-7-11.9 and 12 and will be of benefit to the health and welfare of  
9 the City of Fort Wayne and its citizens.

10 SECTION 2. The economic development facilities will con-  
11 sist of the acquisition and renovation of an existing manufacturing  
12 facility, including the equipment to be installed therein, located  
13 at 3426 Wells Street in Fort Wayne, Indiana to be used by the  
14 Company for the making of ice cream (the "Project").

15 SECTION 3. At the public hearing held by the Fort Wayne  
16 Economic Development Commission, the Commission considered whether  
17 the economic development facilities would have an adverse com-  
18 petitive effect on any similar facilities located in the City of  
19 Fort Wayne, and found, based on special findings of fact set forth  
20 in the Resolution transmitted hereto, that the facilities would not  
21 have an adverse competitive effect. This Common Council hereby con-  
22 firms the findings set forth in the Commission's Resolution, and  
23 concludes that the economic development facilities will not have an  
24 adverse competitive effect on any other similar facilities in the  
25 City of Fort Wayne, and the facilities will be of benefit to the  
26 health and welfare of the citizens of the City of Fort Wayne.

27 SECTION 4. The substantially final forms of the Loan  
28 Agreement, Trust Indenture, Letter of Credit, Credit Agreement, TENR  
29 Services and Remarketing Agreement, Tender Agent Agreement and  
30 Placement Memorandum approved by the Fort Wayne Economic Development  
31 Commission are hereby approved and each shall be incorporated  
32 herein by reference and shall be inserted in the minutes of the

1 Common Council and kept on file by the Clerk. In accordance with  
2 the provisions of I.C. 36-1-5-4, two (2) copies of each of said  
3 documents are on file in the office of the Clerk for public  
4 inspection.

5 SECTION 5. The City of Fort Wayne shall issue its Economic  
6 Development Revenue Bonds (Edy's Grand Ice Cream Project) Series  
7 1985, in the total principal amount of Nine Million Dollars  
8 (\$9,000,000) and maturing on September 1, 2001. Said bonds are to  
9 be issued for the purpose of procuring funds to pay the costs of  
10 acquisition, construction and equipping of the economic development  
11 facilities as more particularly set out in the Trust Indenture and  
12 Loan Agreement incorporated herein by reference, which bonds will be  
13 payable as to principal, premium, if any, and interest from the  
14 payments made by Edy's Grand Ice Cream under the Loan Agreement and  
15 as otherwise provided in the above described Trust Indenture and, if  
16 necessary, from draws made under the Letter of Credit. The bonds  
17 shall be issued in fully registered form in the denomination of  
18 \$100,000 or any integral multiple of \$5,000 in excess thereof pro-  
19 vided that the bonds may be issued in the denomination of \$5,000 or  
20 any integral multiple thereof if necessary to evidence the unre-  
21 deemed portion of any bond, and the bonds may be issued in the deno-  
22 mination of \$5,000 or any integral multiple thereof if the bonds are  
23 ever converted to a fixed interest rate. The bonds shall be  
24 redeemable as provided in Article III of the Trust Indenture.  
25 Payments of principal and interest are payable in lawful money of  
26 the United States of America. Payments of principal are payable at  
27 the principal office of the Trustee or its successor in trust.  
28 Payments of interest are payable by check mailed to the registered  
29 owner as of the Record Date as provided in the Trust Indenture. The  
30 bonds shall never constitute a general obligation of, an indebted-  
31 ness of, or a charge against the general credit of the City of Fort  
32 Wayne, nor are the bonds payable in any manner from revenues raised  
by taxation.

SECTION 6. The Mayor and Clerk are authorized and directed

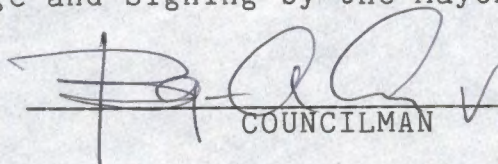
1 to sell such bonds to the purchasers thereof at a price of not less  
2 than 100% of the principal amount thereof. The bonds shall bear  
3 interest at a rate of interest per annum as described in Section  
4 2.02(C) of the Trust Indenture; provided that the interest rate on  
5 the bonds while in a floating rate mode shall in no event exceed 15%  
6 per annum. Furthermore, the bonds shall bear interest at a fixed  
7 rate of interest per annum as described in Section 202(D) of the  
8 Trust Indenture after the Conversion Date defined in the Trust  
9 Indenture.

10 SECTION 7. The Mayor and Clerk are authorized and directed  
11 to execute, attest, affix or imprint by any means the City seal to  
12 these documents to be executed by the City which are approved herein  
13 on behalf of the City and any other document which may be necessary  
14 or desirable to consummate the transaction, including the bonds  
15 authorized herein. The Mayor and Clerk are hereby expressly  
16 authorized to approve any modifications or additions to the docu-  
17 ments to be executed by the City which are approved herein which  
18 take place after the date of this Ordinance with the review and  
19 advice of the City Attorney; it being the express understanding of  
20 this Common Council that said documents to be executed by the City  
21 are in substantially final form as of the date of this Ordinance.  
22 The approval of said modifications or additions shall be conclusi-  
23 vely evidenced by the execution and attestation thereof and the  
24 affixing of the seal thereto or the imprinting of the seal thereon;  
25 provided, however, that no such modification or addition shall  
26 change the maximum principal amount of, interest rate on or term of  
27 the bonds as approved by the Common Council by this Ordinance  
28 without further consideration by the Common Council. The signatures  
29 of the Mayor and Clerk on the bonds may be either manual or fac-  
30 simile signatures. The Clerk is authorized to arrange for delivery  
31 of such bonds to the Trustee named in the Trust Indenture, and  
32 payment for the bonds will be made to the Trustee named in the Trust

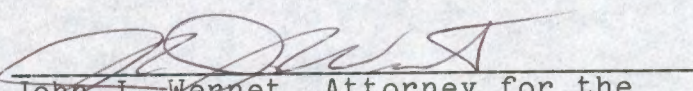
1 Indenture and after such payment the bonds will be delivered by the  
2 Trustee to the purchasers thereof. The Mayor and Clerk shall exe-  
3 cute and the Clerk shall deliver the bonds to the Trustee within  
4 ninety days of the adoption of this ordinance. The bonds shall be  
5 dated the date of authentication thereof.

6 SECTION 8. The provisions of this Ordinance and the Trust  
7 Indenture securing the bods shall constitute a contract binding bet-  
8 ween the City of Fort Wayne and the holder of the Economic  
9 Development Revenue Bonds (Edy's Grand Ice Cream Project) Series  
10 1985, and after the issuance of said bonds, this Ordinance shall not  
11 be repealed or amended in any respect which would adversely affect  
12 the rights of such holders so long as any of said bonds or the  
13 interest thereon remains unpaid.

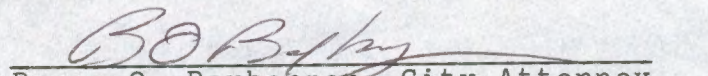
14 SECTION 9. This Ordinance shall be in full force and  
15 effect from and after its passage and signing by the Mayor.

16   
17 COUNCILMAN

18 ADOPTED BY ECONOMIC DEVELOPMENT COMMISSION  
19 AND APROVED AS TO FORM.

20   
21 John J. Wernet, Attorney for the  
22 Economic Development Commission  
23 Dated this 10th day of August, 1985

24 APPROVED AS TO FORM AND LEGALITY.

25   
26 Bruce O. Boxberger, City Attorney  
27 Dated this 10th day of August, 1985.  
28  
29  
30  
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32

Read the first time in full and on motion by E. Stark, seconded by Stier, and duly adopted, read the second time by title and referred to the Committee Finance (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne Indiana, on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M., E.

DATE:

8-13-85

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by E. Stark, seconded by Stier, and duly adopted, placed on its passage. PASSED (~~LOST~~) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>9</u>	_____	_____	_____	_____
<u>BRADBURY</u>	<u>✓</u>	_____	_____	_____	_____
<u>BURNS</u>	<u>✓</u>	_____	_____	_____	_____
<u>EISBART</u>	<u>✓</u>	_____	_____	_____	_____
<u>GiaQUINTA</u>	<u>✓</u>	_____	_____	_____	_____
<u>HENRY</u>	<u>✓</u>	_____	_____	_____	_____
<u>REDD</u>	<u>✓</u>	_____	_____	_____	_____
<u>SCHMIDT</u>	<u>✓</u>	_____	_____	_____	_____
<u>STIER</u>	<u>✓</u>	_____	_____	_____	_____
<u>TALARICO</u>	<u>✓</u>	_____	_____	_____	_____

DATE:

8-27-85

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (~~ANNEXATION~~) (~~APPROPRIATION~~) (~~GENERAL~~)

(SPECIAL) (~~ZONING MAP~~) ORDINANCE (RESOLUTION) NO. S-153-85  
on the 27th day of August, 1985,

ATTEST:

(SEAL)

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Mark E. GiaQuinta  
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 28th day of August, 1985, at the hour of 11:30 o'clock PM M., E.S.T.

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 29th day of August, 1985, at the hour of 8:30 o'clock A M., E.S.T.

Win Moses, Jr.  
WIN MOSES, JR., MAYOR

BILL NO. S-85-08-04

REPORT OF THE COMMITTEE ON FINANCE

WE, YOUR COMMITTEE ON FINANCE TO WHOM WAS

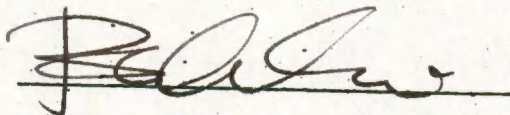
REFERRED AN (ORDINANCE) (~~RESOLUTION~~) ORDINANCE AUTHORIZING THE  
CITY OF FORT WAYNE TO ISSUE ITS "ECONOMIC DEVELOPMENT REVENUE BONDS  
(EDY'S GRAND ICE CREAM PROJECT) SERIES 1985" AND APPROVING OTHER  
ACTIONS IN RESPECT THERETO

HAVE HAD SAID (ORDINANCE) (~~RESOLUTION~~) UNDER CONSIDERATION AND BEG  
LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID (ORDINANCE)

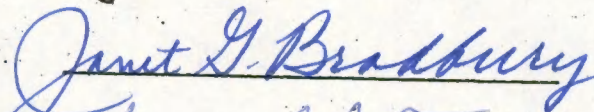
(~~RESOLUTION~~) DO PASS DO NOT PASS WITHDRAWN

YES

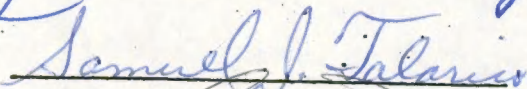
NO



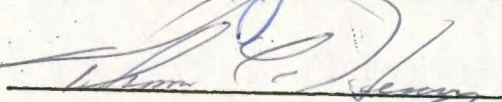
BEN A. EISBART  
CHAIRMAN



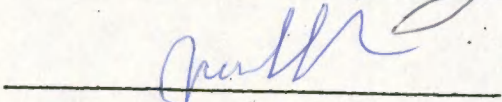
JANET G. BRADBURY  
VICE CHAIRWOMAN



SAMUEL J. TALARICO



THOMAS C. HENRY



JAMES S. STIER

CONCURRED IN 8-27-85

SANDRA E. KENNEDY  
CITY CLERK